



Federal Communications Commission
Washington, D.C. 20554

DEC 8 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable Sidney R. Yates
U. S. House of Representatives
2109 Rayburn House Office Building
Washington, D.C. 20515-1309

Dear Congressman Yates:

Thank you for your letter dated October 31, 1997, on behalf of your constituent, Mayor Jacqueline Gorell, who is concerned about the placement and construction of facilities for the provision of personal wireless services and radio and television broadcast services in her community of Skokie, Illinois. Your constituent's letter refers to three proceedings that are pending before the Commission. In MM Docket No. 97-182, the Commission has sought comments on a Petition for Further Notice of Proposed Rule Making filed by the National Association for Broadcasters and the Association for Maximum Service Television. In this proceeding, the petitioners ask the Commission to adopt a rule limiting the exercise of State and local zoning authority with respect to broadcast transmission facilities in order to facilitate the rapid build-out of digital television facilities, as required by the Commission's rules to fulfill Congress' mandate. In WT Docket No. 97-192, the Commission has sought comment on proposed procedures for reviewing requests for relief from State and local regulations that are alleged to impermissibly regulate the siting of personal wireless service facilities based on the environmental effects of radio frequency emissions, and related matters. Finally, in DA 96-2140 and FCC 97-264, the Commission twice sought comments on a Petition for Declaratory Ruling filed by the Cellular Telecommunications Industry Association seeking relief from certain State and local moratoria that have been imposed on the siting of commercial mobile radio service facilities.

Because all of these proceedings are still pending, we cannot comment on the merits of the issues at this time. However, I can assure you that the Commission is committed to providing a full opportunity for all interested parties to participate. The Commission has formally sought public comment in all three proceedings and, as a result, has received numerous comments from State and local governments, service providers, and the public at large. Your letter, as well as this response, will be placed in the record of all three proceedings and will be given full consideration.

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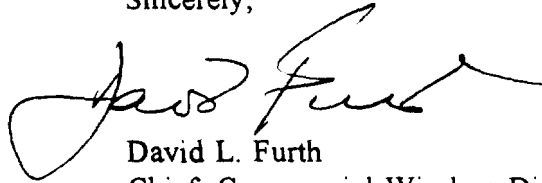
The Honorable Sidney R. Yates

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Further information regarding the Commission's policies toward personal wireless service facilities siting, including many of the comments in the two proceedings involving personal wireless service facilities, is available on the Commission's internet site at <http://www.fcc.gov/wtb/siting>.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Furth". The signature is fluid and cursive, with a large initial "D" and "F".

David L. Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

SIDNEY R. YATES
9TH DISTRICT, ILLINOIS

COMMITTEE
APPROPRIATIONS
RANKING MEMBER, INTERIOR AND
RELATED AGENCIES
FOREIGN OPERATIONS

Congress of the United States
House of Representatives
Washington, DC 20515-1309

due 12/4/97
SF's signature

WASHINGTON, DC 20515
2108 RAYBURN HOUSE OFFICE BUILDING
20515-1309
(202) 225-2111

DISTRICT OFFICES
230 S. DEARBORN STREET
CHICAGO, IL 60606
(312) 332-1206

2100 RICE AVENUE
EVANSTON, IL 60201
(847) 328-2810

WPS
Cellular
Tower
6976

October 31, 1997

Honorable William Kennard
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

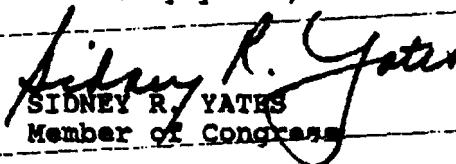
Dear Mr. Chairman:

I am writing on behalf of Mayor Jacqueline Gorell of the Village of Skokie, which is located in my congressional district.

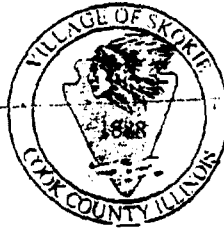
Mayor Gorell understandably is concerned about the FCC's proposed rule on the location of cellular, radio and television towers. She raises important points regarding the time frame in which municipalities must act on related zoning applications and extending FCC jurisdiction over local zoning decisions.

I would be grateful if you would review Mayor Gorell's letter and bear in mind her comments as you consider the final rule.

Sincerely yours,


SIDNEY R. YATES
Member of Congress

Enclosure



Jacqueline Gorell
Mayor

October 28, 1997

Honorable Sidney R. Yates
2100 Ridge Avenue
Room 2700
Evanston, Illinois 60201

Dear Representative Yates:

We are writing to you to ask your assistance in stopping the proposed rulemaking by the FCC that will preempt local zoning regulation of the location of cellular, radio and TV towers that was affirmed by the 1996 Telecommunications Act passed by Congress. Proposed rules which are in conflict with the Village's zoning authority are as follows:

Radio and TV Towers

The FCC has issued a proposed rule that would preempt local zoning of radio and TV towers by establishing an unrealistic period of 21 to 45 days for municipalities to act on any local permit. Any permit request is automatically deemed granted if the municipality doesn't act in this timeframe, even if the application is incomplete or violates local laws. All appeals of zoning and permit denials would go directly to the FCC, not to the local courts.

The Village of Skokie's zoning process takes 60 to 90 days to complete for all types of petitions. More than 21 to 45 days are required to properly review a request and provide legal notice to adjacent property owners that is required by State law.

Cellular Towers

The FCC indicates that it may overturn local zoning decisions, even though they are otherwise completely acceptable if it believes they were tainted by radiation concerns. The FCC's decision cannot be appealed to the courts and the FCC does not need to rely on the reasons a municipality gives for its decision, rather it may substitute its judgment as to what the true reasons were for the municipal action.

Congress expressly preserved local zoning authority over cellular towers in the 1996 Telecommunications Act. Zoning decision by the Village of Skokie on antenna towers and other requests are made to protect the health, safety and welfare of its citizens. All

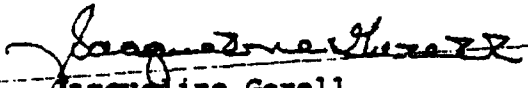
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decisions are made based on strict findings of fact prescribed by state law. Thus, The proposed FCC rulemaking would violate the Village's local zoning authority and state law.

Please do three things to stop the FCC: First contact new FCC Chairman William Kennard and FCC Commissioners Susan Ness, Harold Furchtgott-Roth, Michael Powell and Gloria Tristani asking them to stop these intrusions on local zoning authority in cases WT 97-197, MM Docket 97-182 and DA 96-2140; second, join in the "Dear Colleague Letter" currently being prepared to go to the FCC from many members of Congress; and third, oppose any effort by Congress to grant the FCC the authority to preempt local zoning authority.

Thank you for your consideration in these matters.

Very truly yours,


Jacqueline Gorell
Mayor

JBG:em

cc: Albert J. Rigoni
Village Manager

Nori Van Elzen
Assistant to the Village Manager

North West Municipal Conference
Illinois Municipal League

100-11110

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